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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/706,621

11/12/2003

Michael Stoick

2267.663US02

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08/06/2004

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EXAMINER

MEISLIN, DEBRA S

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,621

Applicant(s)

STOICK ET AL.

Examiner

Debra S Meislin

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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1. Claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, "the thermopolymer fastener" lacks antecedent basis.

Claim 12 is redundant in view of claim 11.

In claims 18, 20-24, and 29-31 the fastener limitations do not further limit the claims. It is not clear as to how the structure of the workpiece limits the torque wrench. It is noted that the preamble of independent claims 15 and 25 and the preamble of claims 18, 20-24, and 29-31 are directed to a "torque wrench" and not to the combination of a torque wrench and fastener. Consequently, the limitations directed to the fastener must be deleted from the claims or the preamble must be amended to define the combination torque wrench and fastener. The claims will be examined as defined by the preamble.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 6, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohlson in view of Bahr.

Ohlson discloses all of the claimed subject matter except for the wrench being formed of a polymer, a thermopolymer, or a fluoropolymer. Bahr discloses a wrench being formed of a polymer, a thermopolymer, or a fluoropolymer for their known

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properties and ease of construction. See the abstract, lines 50-59 of col. 2, lines 1-5 of col. 4, lines 63-67 of col. 5, and lines 1-15 of col. 6 of Bahr. It would have been obvious to one having ordinary skill in the art to form the wrench of Ohlson as a polymer, a thermopolymer, or a fluoropolymer for their known properties and ease of construction as taught by Bahr.

With respect to claim 10, mere reversal of elements was held to be an obvious expedient. *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955). Additionally, the examiner takes Office Notice that the use of internal or external threaded fasteners is notoriously old and well known in the art as evidenced by various bolt and nut configurations. Consequently, it would have been obvious to one having ordinary skill in the art to form the threaded member of Ohlson with external threads as opposed to internal threads as such would have been an obvious mechanical expedient.

4. Claims 7-8 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohlson in view of Bahr as applied above, in further view of Young et al.

Young et al discloses a fastener being formed of a thermopolymer. It would have been obvious to one having ordinary skill in the art to form the fastener of Ohlson out of a thermopolymer for durability and lack of corrosion as taught by Young et al.

5. Claims 2-3, 13, 15, 17-25, and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohlson in view of Bahr as applied above, in further view of Mardirossian.

Mardirossian discloses a C-shaped arcuate engagement portion and a handle portion connected to the arcuate engagement portion. It would have been obvious to

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one having ordinary skill in the art to form the arcuate engagement portion of Ohlson as C-shaped and connected to a handle portion to enable the engagement and rotation of otherwise inaccessible workpieces as taught by Mardirossian.


6. Claims 4, 14, 16, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohlson in view of Bahr and Mardirossian, as applied above, in further view of Giandomencio et al.

Giandomencio et al discloses a handle aperture. It would have been obvious to one having ordinary skill in the art to form the device of Ohlson as modified by Mardirossian with a handle aperture for engagement with a typical square drive of a wrench to apply torque as taught by Giandomencio et al.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 703 308-3671. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 703 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723